REMARKS

Status of the Claims

Claims 1-38 were pending. By way of this amendment, claims 1-13, 15-22, and 24-36 are amended; claims 14, 23, and 37-38 are canceled without prejudice or disclaimer; and claims 39 and 40 are added. Therefore, claims 1-13, 15-22, 24-36, and 39-40 are pending.

No new matter has been added.

The Declaration

The Examiner objected to the Declaration as defective.

Applicants have submitted with this paper a proper Declaration, addressing the objection.

Objections to the Claims

Claim 8

The Examiner objected to claim 8 on the grounds that it should contain both the "biodegradable" and "polymeric" materials recited in claim 7, from which claim 8 depends.

Applicants have so amended claim 8.

Claim 30

The Examiner objected to claim 30 on the grounds that it should contain both the "drugs" and "reagents" recited in claim 8, from which claim 30 depends.

Applicants have so amended claim 30.

Claim Rejections under 35 USC §101

Claims 14 and 15

The Examiner rejected claims 14 and 15 for allegedly lacking utility.

Applicants have, without prejudice or disclaimer, canceled claim 14, and amended claim 15 so that it depends from claim 1, thereby obviating the rejection.

Claim 23

On page 3 of the Office Action, the Examiner rejects claim 23 as allegedly directed to non-statutory subject matter.

Applicants have canceled claim 23, without prejudice or disclaimer.

Claim Rejections under 35 USC §102(b)

Rudakov et al. (USPN 6,451,050)

The Examiner rejected claims 1, 3-4, 6-11, 19, 24-27, 30-31 and 35-38 as allegedly anticipated by Rudakov et al.

Claim 1 is amended to recite that the medical device comprises a membrane having "a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane," such that "when the mechanically expandable device is expanded in the bodily vessel, adjacent to the aneurysm, the membrane is effective to: (i) obstruct blood flow from the vessel into the aneurysm; and (ii) permit blood flow through pores in the membrane and into branch vessels arising from the bodily vessel." Support for this amendment is found in, for instance, Figure 10 and in the specification at, for instance, page 4, lines 10-16; page 12, line 23; and page 17, lines 1-3.

Nowhere does Rudakov et al. teach or suggest a membrane having "a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane," such that "when the mechanically expandable device is expanded in the bodily vessel, adjacent to the aneurysm, the membrane is effective to: (i) obstruct blood flow from the vessel into the aneurysm; and (ii) permit blood flow through pores in the membrane and into branch vessels arising from the bodily vessel," as recited in claim 1.

The stent membrane disclosed by Rudakov et al. does not necessarily have a substantially uniform porosity from a distal to a proximal end such that it is effective to obstruct blood flow from a bodily vessel into an aneurysm and permit blood flow through pores in the membrane into branch vessels arising from the bodily vessel.

Because Rudakov et al. nowhere teaches or suggests all of the limitations of independent claim 1, Rudakov et al. does not anticipate claim 1. Furthermore, because claims 3-4, 6-11, 19, 24-27, 30-31 and 35-38 depend directly or indirectly from claim 1, these claims also cannot be anticipated by Rudakov et al. Therefore, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of claims 1, 3-4, 6-11, 19, 24-27, 30-31 and 35-38 over Rudakov et al.

Solovay et al. (USPN 5,769,884)

The Examiner rejected claims 1-2, 5, 12-13, 16-21, 26, and 28-29 as allegedly anticipated by Solovay et al.

Claim 1 is amended to recite that the medical device comprises a membrane having "a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane," such that "when the mechanically expandable device is expanded in the bodily vessel, adjacent to the aneurysm, the membrane is effective to: (i) obstruct blood flow from the vessel into the aneurysm; and (ii) permit blood flow through pores in the membrane and into branch vessels arising from the bodily vessel." Support for this

amendment is found in, for instance, Figure 10 and in the specification at, for instance, page 4, lines 10-16; page 12, line 23; and page 17, lines 1-3.

Nowhere does Solovay et al. teach or suggest a membrane having "a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane," such that "when the mechanically expandable device is expanded in the bodily vessel, adjacent to the aneurysm, the membrane is effective to: (i) obstruct blood flow from the vessel into the aneurysm; and (ii) permit blood flow through pores in the membrane and into branch vessels arising from the bodily vessel," as recited in claim 1.

The stent membrane disclosed by Solovay et al. is porous at the ends and substantially less porous or nonporous in the center. (Solovay et al., Abstract; Column 2, lines 2-9; Column 4, line 53 - Column 5, line 8).

Because Solovay et al. nowhere teaches or suggests all of the limitations of independent claim 1, Solovay et al. does not anticipate claim 1. Furthermore, because claims 2, 5, 12-13, 16-21, 26, and 28-29 depend directly or indirectly from claim 1, these claims also cannot be anticipated by Solovay et al. Therefore, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of claims 1-2, 5, 12-13, 16-21, 26, and 28-29 over Solovay et al.

Dereume et al. (USPN 5,948,018)

The Examiner rejected claim 34 as allegedly anticipated by Dereume et al.

Claim 34 is amended to recite that the medical device comprises a membrane having "a substantially uniform porosity over a length extending from a distal end of the membrane to a proximal end of the membrane," such that "when the first mechanically expandable device is expanded in the first branch vessel adjacent to the aneurysm and the second mechanically expandable device is expanded in the second branch vessel adjacent to the aneurysm, the membrane is effective to: (i) at least partially obstruct blood flow into the aneurysm; and (ii) permit blood flow through pores in the membrane and into perforators and/or microscopic

branches of brain arteries." Support for this amendment is found in, for instance, Figure 10 and in the specification at, for instance, page 4, lines 10-16; page 12, line 23; and page 17, lines 1-3.

Nowhere does Dereume et al. teach or suggest a membrane having a substantially uniform porosity over a length extending from a distal end of the membrane to a proximal end of the membrane," such that "when the first mechanically expandable device is expanded in the first branch vessel adjacent to the aneurysm and the second mechanically expandable device is expanded in the second branch vessel adjacent to the aneurysm, the membrane is effective to: (i) at least partially obstruct blood flow into the aneurysm; and (ii) permit blood flow through pores in the membrane and into perforators and/or microscopic branches of brain arteries," as recited in claim 34.

The membranes disclosed by Dereume et al. do not necessarily have a uniform porosity from a distal end to a proximal end such that they are effective to obstruct blood flow from a bodily vessel into an aneurysm and permit blood flow through pores in the membrane into brain vessels arising from the bodily vessel.

Because Dereume et al. nowhere teaches or suggests all of the limitations of claim 34, Dereume et al. does not anticipate claim 34. Therefore, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of claim 34 over Dereume et al.

Claim Rejections under 35 USC §103

The Examiner rejected claim 22 as allegedly obvious over Solovay et al., and she rejected claims 32-33 as allegedly obvious over Rudakov et al. in view of Dereume et al.

Claim 1 is amended to recite that the medical device comprises a membrane having "a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane ... " such that "when the mechanically expandable device is expanded in the bodily vessel, adjacent to the aneurysm, the membrane is effective to: (i) obstruct blood flow from the vessel into the aneurysm; and (ii) permit blood flow through pores

in the membrane and into branch vessels arising from the bodily vessel." Support for this amendment is found in, for instance, Figure 10 and in the specification at, for instance, page 4, lines 10-16; page 12, line 23; and page 17, lines 1-3.

Nowhere does Solovay et al., Rudakov et al., or Dereume et al., alone or in any combination, teach or suggest a membrane having "a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane," such that "when the mechanically expandable device is expanded in the bodily vessel, adjacent to the aneurysm, the membrane is effective to: (i) obstruct blood flow from the vessel into the aneurysm; and (ii) permit blood flow through pores in the membrane and into branch vessels arising from the bodily vessel," as recited in claim 1.

Because Solovay et al., alone or in combination with the knowledge of a skilled artisan, does not teach or suggest all of the limitations of claim 1, from which claim 22 indirectly depends, Solovay et al. does not establish *prima facie* obviousness of claim 22. Because the combination of Rudakov et al. and Dereume et al. does not teach or suggest all of the limitations of claim 1, from which claims 32 and 33 indirectly depend, the combination of Rudakov et al. and Dereume et al. does not establish *prima facie* obviousness of claims 32 and 33. Applicant therefore respectfully requests withdrawal of the obviousness rejections based on Solovay et al. and on the combination of Rudakov et al. and Dereume et al.

Discussion of New Claims

Applicant has added new claims 39 and 40, support for which is found in, for instance, original claim 34.

No new matter has been added.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable action on this application. If any questions remain, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

Any remarks in support of patentability of one claim should not necessarily be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not necessarily be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully reserves the right to traverse any of the Examiner's rejections or assertions, even if not discussed herein. Applicant respectfully reserves the right to challenge later whether any of the cited references are prior art. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicant reserves the right to contest later whether a proper reason exists to combine prior art references.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502203, and please credit any excess fees to such deposit account.

Respectfully submitted,

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